

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ERIC REIBER, et al.,

Plaintiffs,

v.

CITY OF PULLMAN, et al.,

Defendants.

NO: 11-CV-0129-TOR

ORDER DENYING PLAINTIFFS'  
MOTION FOR ENTRY OF FINAL  
JUDGMENT AS MOOT

BEFORE THE COURT is Plaintiffs' "Motion for Entry of Final Judgment as to All Claims" (ECF No. 173). Although this matter was heard without oral argument, the Court has reviewed the pleadings and is fully informed.

DISCUSSION

The Judgment entered on April 3, 2013 (ECF No. 165) is a final judgment as to all causes of action which have been asserted in this case. Federal Rule of Civil Procedure 54(b) does not apply because the Court did not certify its order granting partial summary judgment (ECF No. 107) for immediate appeal. Accordingly, the

1 order granting partial summary judgment remained a non-final, non-appealable  
2 order until it “merge[d] with the final judgment” on April 3, 2013. *Adkins v.*  
3 *Mireles*, 526 F.3d 531, 538 (9th Cir. 2008); *see also Litchfield v. Spielberg*, 736  
4 F.2d 1352, 1355 (9th Cir. 1984) (“An appeal from a final judgment draws in  
5 question all earlier, non-final orders and rulings which produced the judgment.”).  
6 Plaintiffs’ motion for entry of final judgment on all claims is denied as moot.


7 **IT IS HEREBY ORDERED:**

8 Plaintiffs’ “Motion for Entry of Final Judgment as to All Claims” (ECF No.  
9 173) is **DENIED as moot**.

10 The District Court Executive is hereby directed to enter this Order and  
11 provide copies to counsel.

12 **DATED** April 29, 2013.



  
THOMAS O. RICE  
United States District Judge